

# United States Senate

## SPECIAL COMMITTEE ON AGING

### ***Medical Liability in LTC: Is Escalating Litigation a Threat to Quality and Access ?***

### **OPENING STATEMENT OF SENATOR CRAIG**

**July 15, 2004**

Good morning and welcome. Over this committee's history, we have explored numerous issues related to the future of Long Term Care. It is well known that, as our nation ages, the pressures on the Long Term Care system will be enormous in the coming years. Clearly, nursing homes are a vital and essential component of Long Term Care when receiving care at home or other community settings is no longer an option for our most frail and elderly seniors.

Recently released studies now show that escalating medical liability is beginning to present challenges to access and quality of care for nursing home residents. Tort claims against Long Term Care providers nationwide are the fastest growing area of health care litigation. The cost of claims for the last 3 years is estimated at over 2 billion dollars and the average medical Insurance premium cost is over 200 percent higher than it was in 2001. These rapidly escalating costs are a massive challenge, especially for smaller providers serving the elderly in rural communities.

Our investigation is based on the latest available data on the affects of liability costs on quality care and access for our most vulnerable seniors. It is therefore important that we remain objective, ask difficult questions, and explore solutions to this emerging problem.

The effects of unprecedented increases in Long Term Care litigation costs are two-fold: First, excessive litigation is forcing many doctors to quit serving patients in nursing homes; and second, this situation is draining resources that should be used to provide quality patient care to

nursing home residents. These trends cannot be allowed to continue. We must ensure that quality Long Term Care services are available to the vulnerable elderly when they are in their greatest need.

In a recent survey, one out of every five doctors in nursing homes said they had problems obtaining or renewing their medical liability insurance in the past year. 10 percent said they have already stopped caring for the elderly in these facilities. In addition, medical directors are leaving the industry due to rising liability costs. This is having a negative impact on people who need the most care.

Before we proceed on this issue today, I want to make one point clear: Those persons who abuse, or neglect, or intentionally cause harm to seniors must be held accountable and should be prosecuted to the fullest extent of the law. Period.

I want to thank the witnesses for being here today. I look forward to your testimony.